



**Department
of Health**

Public Health and Health Planning Council

Project # 211132-B Arena Care LLC

Program: Diagnostic and Treatment Center **County:** Suffolk
Purpose: Establishment and Construction **Acknowledged:** April 13, 2021

Executive Summary

Description

Arena Care, LLC (Arena Care), an existing New York limited liability company, requests approval to establish and construct an Article 28 diagnostic and treatment center (D&TC) at 8 Maple Avenue, Bay Shore (Suffolk County). The center will convert an existing private practice to a D&TC in leased space. The applicant requests certification for primary and specialty medical care (cardiology and vascular services), behavioral health, x-ray, occupational therapy, physical therapy, and speech-language pathology services.

Arena Care, LLC will enter into a non-arm's length lease for the space with People Care Bayshore, LLC, a related entity owned by Abraham Goldberger and Mendel Kaff, which are two of the four Arena Care LLC owners.

The proposed ownership of Arena Care is:

<u>Member</u>	<u>%</u>
Abraham Goldberger	55%
Mendel Kaff	25%
Mayer Goldberger	11%
Joel Goldberger	9%

Gary Dicario, D.O., who specializes in internal medicine, will serve as Medical Director. The proposed Center has negotiated a transfer agreement for backup and emergency services with Good Samaritan Hospital Medical Center (Good Samaritan), located 3.3 miles and seven (7 minutes travel time) from the proposed Center.

OPCHSM Recommendation

Contingent Approval

Need Summary

The proposed D&TC will provide additional access to a variety of medical services for the residents of North Babylon, West Islip, Islip, Bayshore, and the surrounding communities in Suffolk County.

The applicant projects 32,800 visits in the first year and 39,360 in the third year with Medicaid at 73.6% and charity care at 2%.

Program Summary

The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §2801-a(3).

Financial Summary

Total project costs of \$2,878,501 will be met via equity from the proposed members' personal resources. The proposed budget is as follows:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$4,661,497	\$5,593,966
Expenses	<u>4,489,721</u>	<u>5,406,889</u>
Net Income	\$171,776	\$187,077

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health (Department). Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. A copy of the check must also be uploaded into NYSECON. [PMU]
2. Submission of an executed building lease, acceptable to the Department. [BFA]
3. Submission of an executed photocopy of a Certificate of Amendment of Articles of Organization acceptable to the Department. [CSL]
4. Submission of Engineering (MEP) Drawings, acceptable to the Department, as described in BAER Drawing Submission Guidelines DSG-1.0. [AER]
5. Submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAER Drawing Submission Guidelines DSG-1.0. [AER]

Approval conditional upon:

1. This project must be completed by **March 1, 2023**, including all pre-opening processes, if applicable. Failure to complete the project by this date may constitute an abandonment of the project by the applicant and an expiration of the approval. It is the responsibility of the applicant to request prior approval for any extension to the project approval expiration date. [PMU]
2. Construction must start on or before **June 1, 2022**, and construction must be completed by **December 1, 2022**, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the approved start date this shall constitute abandonment of the approval. [PMU]
3. The staff of the facility must be separate and distinct from the staff of other entities; the signage must clearly denote the facility is separate and distinct from other entities; the clinical space must be used exclusively for the approved purpose; and the entrance must not disrupt any other entity's clinical program space. [HSP]
4. The applicant must ensure registration for and training of facility staff on the Department's Health Commerce System (HCS). The HCS is the secure web-based means by which facilities must communicate with the Department and receive vital information. Upon receipt of the Operating Certificate, the Administrator/director that has day-to-day oversight of the facility's operations shall submit the HCS Access Form at the following link to begin the process to enroll for HCS access for the first time or update enrollment information as necessary:
https://www.health.ny.gov/facilities/hospital/docs/hcs_access_form_new_clinics.pdf. Questions may be directed to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004 or email: hospinfo@health.ny.gov [HSP]
5. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]

Council Action Date

December 9, 2021

Need and Program Analysis

Program Description

Proposed Operator	Arena Care LLC
To Be Known As	Arena Care
Site Address	8 Maple Avenue Bay Shore, New York 11706 (Suffolk County)
Services	Medical Services – Primary Care Medical Services-Other Medical Specialties Radiology Services (x-ray) Cardiology Vascular Behavioral Health (under Article 31 threshold) Physical Therapy Occupational Therapy Services Speech-Language Pathology
Hours of Operation	Monday through Friday; 8 AM to 8 PM
Staffing (1st Year / 3rd Year)	24.30 FTEs / 32.05 FTEs
Medical Director(s)	Gary Dicanio, D.O.
Emergency, In-Patient and Backup Support Services	Will be provided by Good Samaritan Medical Center
Agreement and Distance	3.3 miles / 7 minutes away

Analysis

The primary service area of the proposed D&TC consists of the area including North Babylon, West Islip, Islip, and Bay Shore in Suffolk County, and includes zip codes: 11703, 11706, 11717, 11718, 11729, 11751, and 11795. The population of Suffolk County in 2010 was 1,493,350 and is estimated to grow to 1,494,816 by 2025, a slight increase of 0.1%. According to Data USA, in 2019, 95.7% of the population of Suffolk County had health coverage, broken down as follows:

Employer Plans	58.7%
Medicaid	10.8%
Medicare	13.6%
Non-group Plans	12.1%
Military or VA Plans	0.5%

The number of projected visits is 32,800 in Year One and 39,360 in Year Three. The center is projecting Medicaid utilization of 73.6% and Charity Care of 2.0%. The applicant is committed to serving all persons in need without regard to the ability to pay or source of payment.

Prevention Quality Indicators (PQIs) are rates of admission to the hospital for conditions for which good outpatient care can potentially prevent the need for hospitalization, or for which early intervention can prevent complications or more severe disease. The table below provides information on the PQI rates for the overall PQI condition. It shows that the PQI rate for the primary service area is higher than the New York State rate.

Hospital Admissions per 100,000 Adults for Overall PQIs		
PQI Rates: 2017	*Service Area	New York State
All PQIs	1,628	1,431

*Service Area includes zip codes: 11703, 11706, 11717, 11718, 11729, 11751 and 11795.

Character and Competence

The members of Arena Care, LLC are:

Name	Interest
Abraham Goldberger	55%
Mendell Kaff	25%
Mayer Goldberger	11%
Joel Goldberger	9%
Total	100%

Abraham Goldberger has been the current CEO of United Staffing Solutions, Inc., a light industrial, education, administrative support, and medical staffing firm, for over 10 years. In this role, he is responsible for providing staffing and human resources personnel to hundreds of healthcare facilities, as well as, being involved in client operations and management of professional staff. He has been the CEO of YesPac, Inc, a packaging company, the Officer/Director of The Gold Group NY, LLC, which is a company that provides real estate development services, and an owner of PCHI Holdings, Inc., which became the 100% owner of Peoples Care, Inc., a LHCSA, in 2019. Due to the moratorium and subsequent pandemic, an affidavit of no control is in force until such time as the Department begins accepting LHCSA applications again.

Mendel Kaff has been the Executive Director for Home Attendant Service of Hyde Park, Inc., an LHCSA, for six years, where he is responsible for oversight of operational and fiscal goals. He directs the day-to-day operations of the organization while assuring quality patient care and patient satisfaction, and leads the organization to achieve and execute its mission. He has been the Principal of MK & Associates Consulting, Inc., a health care consulting business, for over seven years. He is well versed in the highly regulated health care industry with a focus on quality patient care and customer satisfaction. He also has close relationships with care-related organizations and various managed care organizations. He was the previous President and CEO of Platinum Home Health Care, Inc. where he was responsible for oversight and fiscal goals, as well as, directing the day-to-day operations while assuring quality patient care and patient satisfaction. He is an owner of PCHI Holdings, Inc., which became the 100% owner of Peoples Care, Inc., a LHCSA, in 2019. Due to the moratorium and subsequent pandemic, an affidavit of no control is in force until such time as the Department begins accepting LHCSA applications again.

Mayer Goldberger has been the Bookkeeper for Unite Staffing Solutions, Inc. for over four years. In this role, he maintains the day-to-day accounting functions, accruals financial statement preparations, and performs general accounting functions of the staffing agency. He has been the Principal of Emgo Management, Inc. where he oversees the operational aspects of commercial and residential properties. He is responsible for maintaining the premises and increasing the value. He has also been an instructor for the Congregation Tefila Lemoshe, where he lectures students in Talmudic studies and Jewish history.

Joel Goldberger has been a Consultant at Gold Associates of NY, Inc., a healthcare financial consulting service, for six years. In this role, he provides clients with strategic financial planning, debt capacity analysis, financial feasibility studies to support strategic planning and capital debt financing, transaction due diligence, and other functions. He was previously employed as a Billing Coordinator at United Staffing Solutions, a healthcare staffing agency, where he independently managed all billing functions by collecting and entering data into the financial system and creating invoices for submission, and a Pharmacy Technician at Health Mart Pharmacy. He is an owner of PCHI Holdings, Inc., which became the 100% owner of Peoples Care, Inc., a LHCSA, in 2019. Due to the moratorium and subsequent pandemic, an affidavit of no control is in force until such time as the Department begins accepting LHCSA applications again.

The proposed Medical Director, **Dr. Gary Dicanio**, has been the Medical Director and Family Practice Physician of Quest Medical Care, P.C., a private family practice, for over 14 years. He has also been the Medical Director and Family Practice Physician of Health 1 Medical, P.C., an OB-GYN Attending Physician at Lincoln Medical and Mental Health Center, an Attending Physician and Associate Director of Residency at St. John's Episcopal Hospital, an OB-GYN in Ob/Gyn Associates of Northern New State and Bay Shore OBGYN P.C., and an OB-GYN Attending Physician at Brookhaven Medical Center. Prior

to becoming a doctor, he was a Physician's Assistant. He earned his medical degree from New York College of Osteopathic Medicine in Old Westbury and completed his residency in Obstetrics and Gynecology at Catholic Medical Center of Brooklyn and Queens and Family Practice at Peninsula Hospital Center. He is board-certified in Obstetrics and Gynecology and Family Practice.

Staff from the Department's Division of Hospitals and Diagnostic & Treatment Centers (DHDTTC) reviewed the disclosure information submitted regarding licenses held, formal education, training in pertinent health and/or related areas, employment history, a record of legal actions, and disclosure of the applicant's ownership interest in other health care facilities. Licensed individuals were checked against the State's Office of Medicaid Management, Office of Professional Medical Conduct, and Education Department databases, as well as, the U.S. Department of Health and Human Services Office of the Inspector General Medicare exclusion database.

Additionally, the staff from the DHDTTC reviewed the ten-year surveillance history of all associated facilities. Sources of information included the files, records, and reports found in the Department. Included in the review were the results of any incident and/or complaint investigations, independent professional reviews, and/or comprehensive/focused inspections. The review found that any citations were properly corrected with appropriate remedial action.

Conclusion

Approval for this project will provide additional access to a variety of medical services for the residents of North Babylon, West Islip, Islip, Bayshore, and the surrounding communities in Suffolk County. The individual background review indicates the proposed members have met the standard for approval as set forth in Public Health Law §2801-a(3).

Financial Analysis

Total Project Cost and Financing

Total project costs for leasehold improvements, renovations, and moveable equipment is \$2,878,501; broken down as follows:

Renovation & Demolition	\$1,848,000
Design Contingency	184,800
Construction Contingency	184,800
Architect /Engineering Fees	221,760
Other Fees	77,000
Moveable Equipment	344,407
CON Fee	2,000
Additional Processing Fee	<u>15,734</u>
Total Project Cost	\$2,878,501

The total project cost of \$2,878,501 will be financed via the proposed members' equity. The applicant has indicated that Joel and Mayer Goldberger will not contribute equity towards this project; however, their father, Abraham Goldberger, has provided a disproportionate share affidavit stating he will contribute resources disproportionate to his membership percentage in Arena Care, LLC. BFA Attachment A is the net worth statement of the members of Arena Care, LLC, which indicates sufficient resources to meet the equity requirements of this application.

Operating Budget

The applicant has submitted their first year and third-year operating budget, in 2021 dollars:

<u>Revenues</u>	<u>Year One</u>		<u>Year Three</u>	
	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>
Commercial FFS	\$109	\$101,413	\$109	\$121,717
Commercial MC	\$92	207,210	\$92	248,634
Medicare FFS	\$98	185,576	\$98	222,613
Medicare MC	\$83	52,554	\$83	63,032
Medicaid MC	\$159	3,837,866	\$159	4,605,725
Private Pay	\$20	16,778	\$20	20,125
*All Other	\$180	<u>260,100</u>	\$180	<u>312,120</u>
Total Revenue		\$4,661,497		\$5,593,966
<u>Expenses</u>				
Operating	\$119	\$3,912,400	\$122	\$4,808,945
Capital	<u>\$18</u>	<u>577,321</u>	<u>\$15</u>	<u>597,944</u>
Total Expenses	\$138	\$4,489,721	\$137	\$5,406,889
Net Income		<u>\$171,776</u>		<u>\$187,077</u>
Visits		32,800		39,360
Cost/Visit		\$137		\$137

* Other represents Workers' Compensation and No-Fault Insurance.

Utilization by payor source during first and third years is broken down as follows:

<u>Payor</u>	<u>Year One</u>		<u>Year Three</u>	
	<u>Visits</u>	<u>%</u>	<u>Visits</u>	<u>%</u>
Commercial FFS	934	2.85%	1,121	2.85%
Commercial MC	2,246	6.85%	2,695	6.85%
Medicare FFS	1,894	5.77%	2,272	5.77%
Medicare MC	632	1.93%	758	1.93%
Medicaid MC	24,136	73.58%	28,965	73.59%
Private Pay	856	2.61%	1,027	2.61%
Charity Care	657	2.00%	788	2.00%
All Other	<u>1,445</u>	<u>4.41%</u>	<u>1,734</u>	<u>4.41%</u>
Total	32,800	100.0%	39,360	100.0%

The following is noted concerning the submitted budget:

- The expense and utilization assumptions are based upon the experience of the private practice (Quest Medical Care, P.C.) that will be converted to the Article 28 D&TC through this project.
- The number of FTEs, the mix of staff, and related operating expenses were determined based on a combination of the projected utilization, the experience of the applicant in providing similar services, industry standards, and the experience of similar D&TCs in New York State.
- The applicant plans to achieve the projected 20% increase in utilization in the proposed D&TC by year three by providing services that are not currently offered through the existing private practice, including cardiology, vascular medicine, behavioral health services, diagnostic radiology (x-ray), and speech therapy services. Additional outreach efforts will be put in place by the new Center, which includes outreach in places of worship and to schools and other health/social services agencies.

Lease Agreement

The applicant has submitted a non-arm's length draft lease agreement, as shown on BFA attachment B, and letters from two New York realtors attesting to the rent reasonableness.

Capability and Feasibility

Total project costs of \$2,878,501 will be met via equity from the proposed members' personal resources. Working capital requirements are estimated at \$901,148 based on two months of third-year expenses and will be satisfied via equity from the three members of Arena Care, LLC. BFA Attachment A provides the net worth of the proposed members, which indicates the availability of sufficient funds for stated levels of equity. BFA Attachment C, the pro forma balance sheet for the applicant, indicates that the facility will initiate operations with members' equity of \$3,779,649.

The submitted budget indicates the facility will generate a net income of \$171,776 and \$187,077, in the first and third years, respectively. Revenues are based on prevailing reimbursement methodologies for D&TCs. The submitted budget appears reasonable.

Conclusion

The applicant has demonstrated the capability to proceed in a financially feasible manner.

Attachments

BHFP Attachment	Map
BFA Attachment A	Net Worth Statement of Arena Care, LLC
BFA Attachment B	Lease Agreement
BFA Attachment C	Pro Forma Balance Sheet-Arena Care, LLC